

AMENDED IN SENATE MAY 27, 2008

AMENDED IN SENATE APRIL 3, 2008

**SENATE BILL**

**No. 1681**

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**Introduced by Senator Battin**

February 22, 2008

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An act to amend Sections 54221, 54222, 54226, 54227, and 54230.5 of, to repeal Sections 11011.2, 11011.3, 11011.4, 11011.6, 11011.8, and 11011.9 of, and to repeal and add Section 11011.1 of, the Government Code, relating to state surplus property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1681, as amended, Battin. State surplus property.

(1) Existing law requires the Department of General Services to offer land that has been declared surplus by the Legislature, and that is not needed by any state agency, to local agencies and private entities and individuals, subject to specified conditions.

This bill would revise the condition and procedures by which the department may dispose of surplus land to local agencies and private entities and individuals.

(2) Existing law requires any state or local agency disposing of surplus land, prior to disposing of that property, to send a written offer to sell or lease the property for specified purposes. A state or local agency is not prohibited from selling or leasing surplus land at fair market value or less. If the state or local agency receives offers for the purchase or lease of surplus land from more than one entity, the state or local agency is required to give first priority to the entity that agrees to use the site for housing for persons and families of low or moderate income, but first priority must be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is

already being used for those purposes or if the land is designated for park or recreational use in the general plan and will be developed for that purpose.

This bill would, instead, require the state to first offer surplus property to local agencies, *and then next offer the property to nonprofit affordable housing sponsors, as defined*, prior to ~~being offered~~ offering the surplus property to private entities and would prescribe the procedure for local agencies *and nonprofit affordable housing sponsors* to obtain the property.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11011.1 of the Government Code is  
2 repealed.

3 SEC. 2. Section 11011.1 is added to the Government Code, to  
4 read:

5 11011.1. (a) Notwithstanding any other provision of law,  
6 *except Article 8.5 (commencing with Section 54235) of Chapter 5*  
7 *of Part 1 of Division 2 of Title 5*, the disposal of surplus state real  
8 property *by the Department of General Services shall be subject*  
9 *to the requirements of this section. For purposes of this section,*  
10 *“surplus state real property” means real property declared surplus*  
11 *by the Legislature and directed to be disposed of by the Department*  
12 *of General Services, including any real property previously declared*  
13 *surplus by the Legislature but not yet disposed of by the*  
14 *Department of General Services, ~~shall be subject to the~~*  
15 *requirements of this section. prior to the enactment of this section.*

16 (b) (1) The department may dispose of surplus state real  
17 property by sale, lease, exchange, a sale combined with an  
18 exchange, or other manner of disposition of property, as authorized  
19 by the Legislature, upon any terms and conditions and subject to  
20 any reservations and exceptions the department deems to be in the  
21 best interests of the state.

22 (2) (A) *The Legislature finds and declares that the provision*  
23 *of decent housing for all Californians is a state goal of the highest*  
24 *priority. The disposal of surplus land is a direct and substantial*  
25 *public purpose of statewide concern and will serve an important*  
26 *public purpose, including mitigating the environmental effects of*

1 *state activities. Therefore, it is the intent of the Legislature that*  
 2 *priority be given, as specified in this section, to the disposal of*  
 3 *surplus state land to housing for persons and families of low or*  
 4 *moderate income, where land is suitable for housing and there is*  
 5 *a need for housing in the community.*

6 ~~(2) (A) Notwithstanding any other provision of law, property~~  
 7 ~~that has been declared surplus, whose disposition by sale has been~~  
 8 ~~authorized by the Legislature, and~~

9 *(B) Surplus state real property that has been determined by the*  
 10 *department not to be needed by any state agency shall be offered*  
 11 *to any local agency, as defined in subdivision (a) of Section 54221,*  
 12 *and then to nonprofit affordable housing sponsors, prior to being*  
 13 *offered for sale to private entities or individuals. As used in this*  
 14 *subdivision, “nonprofit affordable housing sponsor” means any*  
 15 *of the following:*

16 *(i) A nonprofit corporation incorporated pursuant to Division*  
 17 *2 (commencing with Section 5000) of Title 1 of the Corporations*  
 18 *Code.*

19 *(ii) A cooperative housing corporation which is a stock*  
 20 *cooperative, as defined by Section 11003.2 of the Business and*  
 21 *Professions Code.*

22 *(iii) A limited-dividend housing corporation.*

23 *(C) The department, subject to this section, shall maintain a list*  
 24 *of surplus state real property in a conspicuous place on its Internet*  
 25 *Web site. The department shall provide local agencies and, upon*  
 26 *request, members of the public, with electronic notification of*  
 27 *updates to the list of properties.*

28 ~~(B)~~

29 *(D) To be considered as a potential priority buyer of the surplus*  
 30 *property, a local agency or nonprofit affordable housing sponsor*  
 31 *shall notify the department of its interest in the surplus state real*  
 32 *property within 30 60 days of posting the notice of the availability*  
 33 *of the real property on the department’s Internet Web site. The*  
 34 *local agency or nonprofit affordable housing sponsor shall*  
 35 *demonstrate, to the satisfaction of the department, that the real*  
 36 *property, or portion of that real property, is to be used by the local*  
 37 *agency or nonprofit affordable housing sponsor for open space,*  
 38 *public parks, affordable housing projects, or development of local*  
 39 *governmental-owned facilities. The sales agreement shall be*  
 40 *executed by the local agency or nonprofit affordable housing*

1 *sponsor* within 60 days after the director determines the local  
2 *agency or nonprofit affordable housing sponsor* is to receive the  
3 real property. The sale of the real property to a local *agency or*  
4 *nonprofit affordable housing sponsor* pursuant to this section shall  
5 be completed, and title transferred, within 60 days of the date the  
6 department executes the sales agreement, or, if required by law,  
7 no later than 60 days after the State Public Works Board has  
8 authorized the sale. If the sale of a surplus state property to a local  
9 *agency or nonprofit affordable housing sponsor* is not completed  
10 within the timeframe specified in this subparagraph, then the  
11 department shall proceed with the process for disposal to *other*  
12 private entities or individuals.

13 (c) (1) The disposal of surplus property to any local *agency or*  
14 *nonprofit affordable housing sponsor* shall be at fair market value  
15 as established by an appraisal and economic evaluation conducted  
16 by the department or approved by the department. If more than  
17 one local *agency or nonprofit affordable housing sponsor* desires  
18 the real property, the fair market value shall be the highest price  
19 offered above that value. ~~The disposal~~

20 (2) *If no local agency or nonprofit affordable housing sponsor*  
21 *is interested, or an agreement, as provided above, is not reached,*  
22 *then the disposal of the property* to private entities or individuals  
23 shall be pursuant to a public bidding process designed to obtain  
24 the highest most certain return for the state from a responsible  
25 bidder, and any transaction based on such a bidding process shall  
26 be deemed to be the fair market value for the purposes of the  
27 reporting requirements pursuant to subdivision (d). ~~The~~

28 (3) *Notwithstanding any other provision of law, the department*  
29 *may sell surplus property, or portion of surplus property, to a local*  
30 *agency, or to a nonprofit affordable housing sponsor if no local*  
31 *agency is interested in the property, for affordable housing projects*  
32 *at a sales price less than fair market value if the department*  
33 *determines that such a discount is needed to accomplish the*  
34 *financing of the affordable housing project. In the event of such a*  
35 *discounted sale, will enable the provision of housing for persons*  
36 *and families of low or moderate income. Nothing shall preclude*  
37 *a local agency that purchases the property for affordable housing*  
38 *from reconveying the property to a nonprofit affordable housing*  
39 *sponsor for development of affordable housing. Transfer of title*  
40 *to the land or lease of the land for affordable housing shall be*

1 *conditioned upon continued use of the property as housing for*  
2 *persons and families of low and moderate income for at least 40*  
3 *years and the department shall record a regulatory agreement that*  
4 *imposes affordability covenants, conditions, and restrictions on*  
5 *the property. The regulatory agreement shall be a first priority lien*  
6 *on the property and last for a period of at least 40 years, and if*  
7 *another state agency is lending funds for a project, then a combined*  
8 *regulatory agreement shall be utilized. Notwithstanding any other*  
9 *provision of law, the regulatory agreement shall not be*  
10 *subordinated to any other lien or encumbrance except for any*  
11 *federal loan program whose statutes or regulations require a first*  
12 *lien priority for that federal loan.*

13 *(4) Notwithstanding any other provision of law, the Director of*  
14 *General Services may transfer surplus property to a local agency*  
15 *for less than fair market value if the local agency uses the property*  
16 *for parks or open-space purposes. The deed or other instrument*  
17 *of transfer shall provide that the property would revert to the state*  
18 *if the use changed to a use other than parks or open-space purposes*  
19 *during the period of 25 years after the transfer date. For the*  
20 *purpose of this paragraph, "open-space purposes" means the use*  
21 *of land for public recreation, enjoyment of scenic beauty, or*  
22 *conservation or use of natural resources.*

23 (d) The Legislature may specifically authorize a particular  
24 surplus real property to be sold at less than fair market value. Thirty  
25 days prior to executing a transaction for a sale, lease, exchange, a  
26 sale combined with an exchange, or other manner of disposition  
27 of property for less than fair market value or for affordable housing,  
28 or as authorized by the Legislature, the Director of General  
29 Services shall report to the chairs of the fiscal committees of the  
30 Legislature all of the following:

- 31 (1) The financial terms of the transaction.
- 32 (2) A comparison of fair market value for the property and the
- 33 terms listed in paragraph (1).
- 34 (3) The basis for agreeing to terms and conditions other than
- 35 fair market value.

36 (e) As to real property sold and or exchanged pursuant to this  
37 section, the director shall except and reserve to the state all mineral  
38 deposits, as defined in Section 6407 of the Public Resources Code,  
39 together with the right to prospect for, mine, and remove the  
40 deposits. If, however, the director determines that there is little or

1 no potential for mineral deposits, the reservation may be without  
2 surface right of entry above a depth of 500 feet, or the rights to  
3 prospect for, mine, and remove the deposits shall be limited to  
4 those areas of the property conveyed that the director determines  
5 to be reasonably necessary for the removal of the deposits.

6 (f) The failure to comply with this section, except for subdivision  
7 (d) shall not invalidate the transfer or conveyance of real property  
8 to a purchaser for value.

9 SEC. 3. Section 11011.2 of the Government Code is repealed.

10 SEC. 4. Section 11011.3 of the Government Code is repealed.

11 SEC. 5. Section 11011.4 of the Government Code is repealed.

12 SEC. 6. Section 11011.6 of the Government Code is repealed.

13 SEC. 7. Section 11011.8 of the Government Code is repealed.

14 SEC. 8. Section 11011.9 of the Government Code is repealed.

15 SEC. 9. Section 54221 of the Government Code is amended  
16 to read:

17 54221. (a) As used in this article, the term “local agency”  
18 means every city, whether organized under general law or by  
19 charter, county, city and county, and district, including school  
20 districts of any kind or class, empowered to acquire and hold real  
21 property.

22 (b) As used in this article, the term “surplus land” means land  
23 owned by any local agency, that is determined to be no longer  
24 necessary for the agency’s use, except property being held by the  
25 agency for the purpose of exchange.

26 (c) As used in this article, the term “open-space purposes” means  
27 the use of land for public recreation, enjoyment of scenic beauty,  
28 or conservation or use of natural resources.

29 (d) As used in this article, the term “persons and families of low  
30 or moderate income” means the same as provided under Section  
31 50093 of the Health and Safety Code.

32 (e) As used in this article, the term “exempt surplus land” means  
33 either of the following:

34 (1) Surplus land that is transferred pursuant to Section 25539.4.

35 (2) Surplus land that is (A) less than 5,000 square feet in area,  
36 (B) less than the minimum legal residential building lot size for  
37 the jurisdiction in which the parcel is located, or 5,000 square feet  
38 in area, whichever is less, or (C) has no record access and is less  
39 than 10,000 square feet in area; and is not contiguous to land owned  
40 by a state or local agency that is used for park, recreational,

1 open-space, or low- and moderate-income housing purposes and  
2 is located neither within an enterprise zone pursuant to Section  
3 7073 nor a designated program area as defined in Section 7082.  
4 If the surplus land is not sold to an owner of contiguous land, it is  
5 not considered exempt surplus land and is subject to this article.

6 (f) Notwithstanding subdivision (e), the following properties  
7 are not considered exempt surplus land and are subject to this  
8 article:

9 (1) Lands within the coastal zone.

10 (2) Lands within 1,000 yards of a historical unit of the State  
11 Parks System.

12 (3) Lands within 1,000 yards of any property that has been listed  
13 on, or determined by the State Office of Historic Preservation to  
14 be eligible for, the National Register of Historic Places.

15 (4) Lands within the Lake Tahoe region as defined in Section  
16 66905.5.

17 SEC. 10. Section 54222 of the Government Code is amended  
18 to read:

19 54222. Any local agency disposing of surplus land shall send,  
20 prior to disposing of that property, a written offer to sell or lease  
21 the property as follows:

22 (a) A written offer to sell or lease for the purpose of developing  
23 low- and moderate-income housing shall be sent to any local public  
24 entity, as defined in Section 50079 of the Health and Safety Code,  
25 within whose jurisdiction the surplus land is located. Housing  
26 sponsors, as defined by Section 50074 of the Health and Safety  
27 Code, shall be sent, upon written request, a written offer to sell or  
28 lease surplus land for the purpose of developing low- and  
29 moderate-income housing. All notices shall be sent by first-class  
30 mail and shall include the location and a description of the property.  
31 With respect to any offer to purchase or lease pursuant to this  
32 subdivision, priority shall be given to development of the land to  
33 provide affordable housing for lower income elderly or disabled  
34 persons or households, and other lower income households.

35 (b) A written offer to sell or lease for park and recreational  
36 purposes or open-space purposes shall be sent:

37 (1) To any park or recreation department of any city within  
38 which the land may be situated.

39 (2) To any park or recreation department of the county within  
40 which the land is situated.

1 (3) To any regional park authority having jurisdiction within  
2 the area in which the land is situated.

3 (4) To the State Resources Agency or any agency that may  
4 succeed to its powers.

5 (c) A written offer to sell or lease land suitable for school  
6 facilities construction or use by a school district for open-space  
7 purposes shall be sent to any school district in whose jurisdiction  
8 the land is located.

9 (d) A written offer to sell or lease for enterprise zone purposes  
10 any surplus property in an area designated as an enterprise zone  
11 pursuant to Section 7073 shall be sent to the nonprofit  
12 neighborhood enterprise association corporation in that zone.

13 (e) A written offer to sell or lease for the purpose of developing  
14 property located within an infill opportunity zone designated  
15 pursuant to Section 65088.4 or within an area covered by a transit  
16 village plan adopted pursuant to the Transit Village Development  
17 Planning Act of 1994 (Article 8.5 (commencing with Section  
18 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any  
19 county, city, city and county, community redevelopment agency,  
20 public transportation agency, or housing authority within whose  
21 jurisdiction the surplus land is located.

22 (f) The entity or association desiring to purchase or lease the  
23 surplus land for any of the purposes authorized by this section  
24 shall notify in writing the disposing agency of its intent to purchase  
25 or lease the land within 60 days after receipt of the agency's  
26 notification of intent to sell the land.

27 SEC. 11. Section 54226 of the Government Code is amended  
28 to read:

29 54226. Nothing in this article shall be interpreted to limit the  
30 power of any local agency to sell or lease surplus land at fair market  
31 value or at less than fair market value, and nothing in this article  
32 shall be interpreted to empower any local agency to sell or lease  
33 surplus land at less than fair market value. No provision of this  
34 article shall be applied when it conflicts with any other provision  
35 of statutory law.

36 SEC. 12. Section 54227 of the Government Code is amended  
37 to read:

38 54227. In the event that any local agency disposing of surplus  
39 land receives offers for the purchase or lease of that land from  
40 more than one of the entities to which notice and an opportunity



1 to purchase or lease shall be given pursuant to this article, the local  
2 agency shall give first priority to the entity that agrees to use the  
3 site for housing for persons and families of low or moderate  
4 income, except that first priority shall be given to an entity that  
5 agrees to use the site for park or recreational purposes if the land  
6 being offered is already being used and will continue to be used  
7 for park or recreational purposes, or if the land is designated for  
8 park and recreational use in the local general plan and will be  
9 developed for that purpose.

10 SEC. 13. Section 54230.5 of the Government Code is amended  
11 to read:

12 54230.5. The failure by a local agency to comply with this  
13 article shall not invalidate the transfer or conveyance of real  
14 property to a purchaser or encumbrancer for value.